

CMRS use of exclusively SMR 800 MHz spectrum is determined to be subject to competitive bidding procedures, the FCC's concern that this would be an incentive driving SMRs to employ General Category spectrum in lieu of available SMR channels is misplaced. Under the current rules, there are stringent limitations on the use of General Category channels in trunked SMR systems.^{24/} These rules prohibit SMRs from being assigned General Category channels for expansion capacity unless there are no primary SMR frequencies available for that purpose. They also strictly limit the permissibility of converting heretofore conventional General Category frequencies to trunked configurations. Because SMRs cannot acquire General Category frequencies on an equivalent basis with primary SMR channels, the incentive described in the Notice does not exist.

45. The FCC's concern about retaining spectrum for non-SMR use, while understandable, would not be addressed by excluding SMRs from using General Category channels. In fact, the vast majority of those frequencies are already being used in trunked SMR operations in most areas of spectrum scarcity.^{25/} Since the channels have only been available for this purpose since 1990^{26/}, it is apparent that this spectrum remained substantially underutilized by non-SMR, conventional licensees for the first 15 years of its availability. The FCC determined correctly that spectrum should not remain

^{24/} See 47 C.F.R. §§ 90.615 and 90.621(g)(3).

^{25/} In markets where any 800 MHz spectrum remains available, that remaining is typically in the Business and Industrial/Land Transportation pools, not SMR or General Category spectrum.

^{26/} Report and Order, PR Docket No. 87-213, 67 RR 2d 1473 (1990).

fallow indefinitely, but instead should be made available to those who would place it in operation. Trunked SMRs have done so in accordance with the carefully crafted FCC rules referenced above to such an extent that, in AMTA's opinion, future use of that band should be limited to SMR eligibles.

46. At the same time, AMTA suggests that the FCC modify its rules to prohibit further inter-category sharing of Business and Industrial/Land Transportation spectrum by SMRs. Those frequency pools currently support significantly less SMR usage than do General Category channels, and would, therefore, be a more appropriate line of demarcation between CMRS and PMRS use of 800 MHz spectrum. In AMTA's opinion, the approach proposed herein simply codifies the spectrum utilization that has occurred already in the marketplace, and reasonably balances the needs of CMRS and PMRS users in this band

B. Site-Specific Versus Geographic-Based Licensing

47. In the Notice, the FCC questions whether traditional SMR systems should continue to be licensed under the frequency and site specific licensing approach used today, or whether authorizations should be issued for defined geographic blocks in the future. Notice at ¶¶ 24-5. The FNPR points out that the existing extensive licensing on this spectrum could support continued use of the current scheme to "ensure continuity and minimize disruption in the future assignment of spectrum for local use." Notice at ¶ 24. Alternatively, however, the FCC notes that geographic-based licensing is administratively superior to site specific grants for determining mutual exclusivity, and that such licenses could provide licensees with greater operational flexibility. Notice at

¶ 25.

48. AMTA agrees with the FCC's assessment of the advantages of each of these alternatives. It is also likely that a geographic-based license would facilitate the future integration of local systems into MTA-based operations should additional spectrum be desired. However, AMTA's members have identified sufficient concerns regarding a conversion from a site specific to geographic licenses so that no consensus has yet been reached on this matter.

49. As the FCC has already noted, there are obvious advantages in retaining the current approach in light of the extensive amount of licensing and actual system implementation in this spectrum. Today's SMR systems are located at sites intended to optimize coverage for the intended customer base without regard to their geopolitical boundaries. In many instances the Basic Trading Areas ("BTAs") which the Notice identified as the appropriate geographic areas for local licensing are smaller than the service areas of currently operating systems. Notice at ¶ 25. Existing licensees would have to obtain authorizations for multiple markets to retain the coverage they have today even though the collective coverage of those areas might greatly exceed the current service area. Some facilities may be situated on the boundaries of the BTAs and serve customers in both areas. Others may be sited within one BTA, but serve a customer base almost entirely within an adjacent area. These anomalies reflect the real world complexities of identifying useable transmitter sites, particularly in rural areas where facilities are scarcer. The site selection process might have been different if, as in cellular and PCS, geographic licensing had been in place from the outset. However,

given the current situation, the transition proposed in the FNPR would be difficult at best.

50. If the FCC elects to adopt a geographic-based licensing scheme for local SMR systems, the Association recommends that it consider using BEAs, rather than BTAs, as the defining area.^{27/} BEAs represent a smaller number of somewhat larger markets clustered around areas of interrelated commerce. In general, they appear to approximate more closely than do BTAs the coverage range of existing systems. They also are based on many of the same definitional factors that characterize the typical subscriber on a local SMR system, particularly the dispatch-oriented customer. While AMTA appreciates the administrative advantages of being able to compare "apples with apples", the Association believes that the unquestionably difficult transition from site specific to geographic-based local licensing would be facilitated by the use of BEAs.

V. AUCTIONS

51. AMTA has already explained its opposition to the proposed use of auctions to select among mutually exclusive applicants in this band. However, the Association is also considering what rules should be applied in the event that the FCC adopts competitive bidding procedures. Those deliberations are ongoing and the issue will be addressed in AMTA's Reply Comments in this proceeding.

^{27/} See, Dept. of Commerce, Bureau of Econ. Analysis, Proposed Redefinition of the BEA Economic Areas, 59 FR 55416 (November 7, 1994).

VI. CONCLUSION

52. For the reasons described above, AMTA urges the Commission to proceed expeditiously to complete this proceeding, consistent with the recommendations detailed herein.

CERTIFICATE OF SERVICE

I, Cheri Skewis, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify that I have, on this 5th day of January, 1995, placed in the United States mail, first-class postage pre-paid, a copy of the foregoing Comments to the following:

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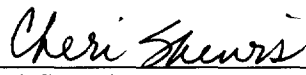
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